



8.25-04

TFA

Express Mail No. EV452773151US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Keyer et al. Confirmation No.: 3549  
Serial No.: 10/822,599 Art Unit: 3732  
Filed: April 12, 2004 Examiner: Not Yet Assigned  
For: ROD PERSUADER Attorney Docket No.: 8932-927-999

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
- 1b. A legible copy of :
- ☒ Each U.S. patent application publication and U.S. and foreign patent (a copy of each U.S. patent is not submitted herein, in accord with USPTO revised guidelines for applications filed after July 1, 2003);
- ☐ Each publication or that portion which caused it to be listed on the PTO-1449;
- ☐ For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
- ☐ all other information or portion which caused it to be listed on the PTO-1449.
- 1c. ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.
- 1d. ☒ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
2. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☐ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);

☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

☒ Before the mailing of the first Office action on the merits;

☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

3. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

*(Check either Item 3a or 3b)*

3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.

3b. ☐ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:  
☐ enclosed  
☐ to be charged to Jones Day Deposit Account No. 50-3013.

*(Item 3b to be checked if any reference known for more than 3 months)*

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The Certification Statement in Item 5 below is applicable.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:  
☐ enclosed.  
☐ to be charged to Jones Day Deposit Account No. 50-3013

5. ☐ Certification Statement (applicable if Item 3a or Item 4 is checked)

*(Check either Item 5a or 5b)*

5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.

5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.

5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.

6. ☐ This application is a continuation application under 37 C.F.R. §1.60 or §1.53(b) or (d).

*(Check appropriate Items 6a, 6b and/or 6c)*

- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☐ Copies of publications listed on Form PTO-1449 from prior application Serial No. , filed on , of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☐ Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. , filed on , and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on . A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on .
8. ☐ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:

*( Check Item 8a, 8b, or 8c)*

- 8a. ☐ satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ set forth in the application.
- 8c. ☐ enclosed as an attachment hereto.
9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 50-3013.

10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Date: August 23, 2004

Respectfully submitted,

*Giuseppe Molaro*

52,039

By: Giuseppe Molaro

(Reg. No.)

35,340

For: Brian M. Rothery

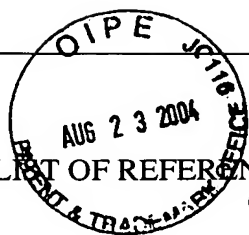
(Reg. No.)

**JONES DAY**

222 East 41st Street

New York, New York 10017

(212) 326-3939



## LIST OF REFERENCES CITED BY APPLICANT

(Use several sheets if necessary)

ATTY DOCKET NO.

8932-927-999

APPLICATION NO

10/822,599

APPLICANT

Keyer et al.

FILING DATE

April 12, 2004

GROUP

3732

## U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A01	20040049191	03/11/04	Markworth, et al.			
	A02	20030229355	12/11/03	Keller			
	A03	20030225408	12/04/03	Nichols, et al.			
	A04	2003018342	01/23/03	Oribe et al.			
	A05	20030060826	03/27/03	Foley, et al.			
	A06	20030040746	02/27/03	Mitchell, et al.			
	A07	20030023243	01/30/03	Biedermann, et al.			
	A08	20030009168	01/09/03	Beale, et al.			
	A09	20020169448	11/14/02	Vanacker			
	A10	20020161368	10/31/02	Foley, et al.			
	A11	20020099377	07/25/02	Zucherman, et al.			
	A12	20020019633	02/14/02	Ray			
	A13	20010027318	10/04/01	Oribe, et al.			
	A14	6,746,449	06/08/04	Jones, et al.			
	A15	6,743,231	06/01/04	Gray, et al.			
	A16	6,726,692	04/27/04	Bette			
	A17	6,723,100	04/20/04	Biedermann			
	A18	6,712,819	03/30/04	Zucherman			
	A19	6,660,010	12/09/03	Gellman			
	A20	6,660,006	12/09/03	Markworth et al.			
	A21	6,648,888	11/18/03	Shluzas			
	A22	6,641,595	11/04/03	Moran et al.			
	A23	6,530,929	03/11/03	Justis, et al.			
	A24	6,517,554	02/11/03	Zhu, et al.			
	A25	6,516,505	02/11/03	Taylor			
	A26	6,440,133	08/27/02	Beale, et al.			
	A27	6,183,472	02/06/01	Lutz			
	A28	6,139,549	10/31/00	Keller			
	A29	6,123,707	09/26/00	Wagner			
	A30	6,036,692	03/14/00	Burel, et al.			
	A31	6,017,342	01/25/00	Rinner			
	A32	6,015,413	01/18/00	Faccioli, et al.			
	A33	6,015,409	01/18/00	Jackson			
	A34	5,941,885	08/24/99	Jackson			
	A35	5,910,141	06/08/99	Morrison, et al.			
	A36	5,899,901	05/04/99	Middleton			

	A37	5,810,878	09/22/98	Burel, et al.			
	A38	5,782,830	07/21/98	Farris			
	A39	5,720,751	02/24/98	Jackson			
	A40	5,707,371	01/13/98	Metz-Stavenhagen			
	A41	5,520,704	05/28/96	Castro, et al.			
	A42	5,509,596	04/23/96	Green, et al.			
	A43	5,430,919	07/11/95	Starks, et al.			
	A44	5,385,565	01/31/95	Ray			
	A45	5,364,397	11/15/94	Hayes, et al.			
	A46	5,282,302	02/01/94	Starks, et al.			
	A47	5,281,223	01/25/94	Ray			
	A48	5,246,442	09/21/93	Ashman, et al.			
	A49	5,190,550	03/02/93	Miller, et al.			
	A50	5,167,662	12/01/92	Hayes, et al.			
	A51	5,060,365	10/29/91	Lanzo			
	A52	5,020,519	06/04/91	Hayes, et al.			
	A53	4,567,884	02/04/86	Edwards			
	A54	4,422,451	12/27/83	Kalamchi			
	A55	4,411,259	10/25/83	Drummond			
	A56	4,409,968	10/18/83	Drummond			
	A57	4,347,845	09/07/82	Mayfield			
	A58	4,271,836	06/09/81	Bacal, et al.			
	A59	4,050,464	09/27/77	Hall			
	A60	3,604,487	09/14/71	Gilbert			
	A61	D363545	10/24/95	Miller			
	A62	D346217	04/19/94	Sparker, et al.			
	A63	D331625	12/08/92	Price, et al.			

### FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	B01	WO 9844858	10/15/98	Steib et al.				
	B02	WO 9311715	06/24/93	Jeanson et al.				
	B03	WO 3028566	04/10/03	Saint Martin et al.				
	B04	FR 2677242	12/11/92	Jeanson et al.				
	B05	FR 2729291	07/19/96	Gennari				
	B06	DE 4238339	05/19/94	Brehm				
	B07	DE 19828137	01/05/00	Med Medical Engineering Dev Lt				

### OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

C01	
-----	--

EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.